



## Senate

General Assembly

**File No. 842**

January Session, 2013

Substitute Senate Bill No. 1145

*Senate, May 23, 2013*

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-458 of the general statutes is amended by  
2 adding subsection (c) as follows (*Effective October 1, 2013*):

3 (NEW) (c) An association's board of directors, as defined in section  
4 47-68a, or executive board, as defined in section 47-202, shall ensure  
5 that any community association manager under contract to provide  
6 association management services to an association provides such  
7 services in full compliance with the association's bylaws, as well as the  
8 provisions of chapter 825 or 828, as applicable.

9 Sec. 2. Subdivision (5) of subsection (b) of section 47-250 of the  
10 general statutes is repealed and the following is substituted in lieu  
11 thereof (*Effective October 1, 2013*):

12 (5) Unless [the meeting is included in a schedule given to the unit

13 owners or the] a meeting is called to deal with an emergency, the  
14 secretary or other officer specified in the bylaws shall give notice of  
15 each executive board meeting to each board member and to the unit  
16 owners. The notice shall be given at least five days before the meeting  
17 and shall state the time, date, place and agenda of the meeting, except  
18 that notice of a meeting called to adopt, amend or repeal a rule shall be  
19 given in accordance with subsection (a) of section 47-261b.

20 Sec. 3. Subsection (c) of section 47-252 of the general statutes is  
21 repealed and the following is substituted in lieu thereof (*Effective*  
22 *October 1, 2013*):

23 (c) Except as otherwise provided in the declaration or bylaws, the  
24 following requirements apply with respect to proxy voting:

25 (1) Votes allocated to a unit may be cast pursuant to a directed or  
26 undirected proxy duly executed by a unit owner;

27 (2) The association may provide a proxy form to any unit owner  
28 who seeks to vote pursuant to a directed or undirected proxy. No  
29 proxy form provided by an association pursuant to this subdivision  
30 shall include the name of the proxy holder, unless the unit owner  
31 requests that the name of the proxy holder be included on the proxy  
32 form;

33 ~~[(2)]~~ (3) If a unit is owned by more than one person, each owner of  
34 the unit may vote or register protest to the casting of votes by the other  
35 owners of the unit through a duly executed proxy;

36 ~~[(3)]~~ (4) A unit owner may revoke a proxy given pursuant to this  
37 section only by actual notice of revocation to the person presiding over  
38 a meeting of the association;

39 ~~[(4)]~~ (5) A proxy is void if it is not dated or purports to be revocable  
40 without notice;

41 ~~[(5)]~~ (6) A proxy terminates one year after its date, unless it specifies  
42 a shorter term; and

43        [(6)] (7) A person may not cast votes representing more than fifteen  
44        per cent of the votes in the association pursuant to undirected proxies.

45        Sec. 4. Subdivision (1) of subsection (a) of section 47-260 of the  
46        general statutes is repealed and the following is substituted in lieu  
47        thereof (*Effective October 1, 2013*):

48        (1) Detailed records of receipts and expenditures affecting the  
49        operation and administration of the association and other appropriate  
50        accounting records, including, but not limited to, records relating to  
51        reserve accounts;

52        Sec. 5. Section 47-253 of the general statutes is amended by adding  
53        subsection (e) as follows (*Effective October 1, 2013*):

54        (NEW) (e) No member of the executive board or officer of the  
55        association shall be criminally liable for any conduct performed on  
56        behalf of the association which is within the scope of such member's or  
57        officer's authority.

58        Sec. 6. (NEW) (*Effective October 1, 2013*) No member of a board of  
59        directors, as defined in section 47-68a of the general statutes, or officer,  
60        as defined in section 47-68a of the general statutes, shall be criminally  
61        liable for any conduct performed by the member or officer on behalf of  
62        the association of unit owners, as defined in section 47-68a of the  
63        general statutes, which is within the scope of such member's or  
64        officer's authority.

|   |                        |              |
|---|------------------------|--------------|
| This act shall take effect as follows and shall amend the following sections: |                        |              |
| Section 1   | <i>October 1, 2013</i> | 20-458       |
| Sec. 2  | <i>October 1, 2013</i> | 47-250(b)(5) |
| Sec. 3  | <i>October 1, 2013</i> | 47-252(c)    |
| Sec. 4  | <i>October 1, 2013</i> | 47-260(a)(1) |
| Sec. 5  | <i>October 1, 2013</i> | 47-253       |
| Sec. 6  | <i>October 1, 2013</i> | New section  |

**INS**

*Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill, which makes statutory changes affecting condominiums and other common interest communities, does not result in a fiscal impact to the state or municipalities as these are private entities.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 1145*****AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT.*****SUMMARY:**

This bill makes several changes affecting condominiums and other common interest communities.

It requires executive boards under the Common Interest Ownership Act (CIOA), and boards of directors under the Condominium Act, to ensure that community association managers under contract with them for association management services provide such services in full compliance with (1) the association's bylaws and (2) CIOA or the Condominium Act as applicable (see BACKGROUND) (§ 1). The bill does not specify how boards must do so.

The bill exempts board members or officers under CIOA and the Condominium Act from criminal liability for any conduct they perform on the association's behalf, as long as the conduct is within the scope of their authority (§§ 5-6).

The bill generally requires executive boards under CIOA to give board members and unit owners notice with specified information at least five days before each board meeting. Under current law, boards can provide them with a schedule of board meetings instead of providing specific notice in advance of each meeting (§ 2).

Under the bill, the secretary or other officer specified in the bylaws must provide the notice at least five days before each board meeting specifying the meeting time, date, place, and agenda. By law, (1) different requirements apply for meetings called to adopt, amend, or repeal a rule (e.g., the notice must be given at least 10 days in advance)

and (2) these notice requirements do not apply to meetings called to deal with an emergency.

CIOA currently sets certain conditions for proxy voting. The bill specifically allows associations to provide proxy forms to unit owners seeking to vote under a directed or undirected proxy. (A directed proxy specifies how the vote is to be cast, while an undirected proxy allows the person given the proxy to decide how to vote.) It also prohibits associations from providing proxies that include the proxy holder's name, unless the unit owner requests the name to be on the proxy (§ 3).

Under CIOA, associations must keep detailed records of receipts and expenditures affecting their operation and administration and other appropriate accounting records. The bill specifies that this includes records relating to reserve accounts (§ 4).

EFFECTIVE DATE: October 1, 2013

## **BACKGROUND**

### ***Common Interest Ownership Act (CIOA) and the Condominium Act***

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain CIOA provisions (including the CIOA provisions that this bill amends, see §§ 2-5) also apply to common interest communities created in Connecticut before January 1, 1984, but do not invalidate existing provisions of the communities' governing instruments. Common interest communities created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216, -218).

The Condominium Act (CGS §§ 47-68a to 47-90c) governs condominiums created from 1977 through 1983, except when CIOA applies to them.

**Related Bills**

The Judiciary Committee reported favorably three other bills making amendments to CIOA. SB 1103 (File 682) changes approval requirements for assignments of the right to future income as security for loan agreements. sHB 6513 (File 667), passed by the House on May 15, 2013, changes requirements for approval of annual budgets and special assessments. sHB 6662 (File 835), as amended and passed by the House on May 16, 2013, extends from six to nine months the priority of common expense assessments over previously recorded mortgages and makes other changes affecting the priority lien.

HB 6477 (File 219), reported favorably by the Insurance and Real Estate Committee, extends from six to 12 months the priority of common expense assessments over previously recorded mortgages under CIOA.

**Legislative History**

The Senate referred the bill (File 715) to the Insurance and Real Estate Committee, which reported a substitute that removed a provision eliminating the current requirement under CIOA that the association's insurance policy provides primary coverage if, at the time of loss, the unit owner has a policy covering the same risk.

**COMMITTEE ACTION**

## Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)

## Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 16 Nay 0 (05/16/2013)